

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

228D0674

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB175** - 2/1/00

Introduced by: Senators Hutmacher, Bogue, Duxbury, Flowers, Lange, Moore, and Vitter and
Representatives Nachtigal, Apa, Davis, Hanson, Kooistra, Sutton (Daniel),
Volesky, and Weber

1 FOR AN ACT ENTITLED, An Act to establish the Division of Antitrust Enforcement within
2 the Office of the Attorney General, to provide for investigation and enforcement, and to
3 amend investigation confidentiality requirements to allow state and federal officials access.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 1-11 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 There is hereby established within the Office of the Attorney General the Division of
8 Antitrust Enforcement. The attorney general shall appoint the director of the division. The
9 division is subordinate to the attorney general and shall carry out orders and directives issued by
10 the attorney general.

11 Section 2. That chapter 1-11 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 The Division of Antitrust Enforcement is authorized to investigate potential antitrust
14 violations and unfair business practices, and where authorized by law, bring enforcement actions.
15 The division shall place special emphasis on potential antitrust violations and unfair business

practices in the agricultural sector.

Section 3. That § 40-15B-6 be amended to read as follows:

40-15B-6. The attorney general shall enforce the provisions of §§ 40-15B-1 to 40-15B-8, inclusive, and the Department of Agriculture shall refer any violations of these provisions to the attorney general. ~~The attorney general or any person injured by a violation of these provisions may bring an action in circuit court to restrain a packer from violating these provisions. A seller who receives a discriminatory price or who is offered only a discriminatory price for livestock based upon a violation of these provisions by a packer has a civil cause of action against the packer and, if successful, shall be awarded treble damages.~~ The provisions of §§ 37-1-11.1 to 37-1-14.4, inclusive, are applicable to investigations authorized under this section.

Section 4. That § 37-1-11.3 be amended to read as follows:

37-1-11.3. Any procedure, testimony taken, or material produced under §§ 37-1-11.1 and 37-1-11.2 shall be kept confidential by the attorney general before bringing an action, and during the action, against a person under this chapter for the violation under investigation, unless confidentiality is waived in writing by the person being investigated and the person who has testified, answered interrogatories, or produced material, or disclosure is authorized by the court. However, nothing prevents the attorney general from providing any testimony taken or material produced to other state or federal officials who are charged with antitrust enforcement and agree to abide by the provisions of this section or comparable provisions of state and federal law.

1 **BILL HISTORY**

2 1/24/00 First read in Senate and referred to Judiciary. S.J. 165

3 1/28/00 Scheduled for Committee hearing on this date.

4 1/28/00 Judiciary Do Pass Amended, Passed, AYES 4, NAYS 2. S.J. 252